Case and Comment
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Municipalities and Mobs

MOBILE vulgus!" exclaimed the gentlemen of two centuries ago as they looked down upon the rabble. Soon the expression was shortened to "mob." "It is perhaps this humor of speaking no more than we needs must," wrote Addison, "which has so miserably curtailed some of our words. I dare not answer that 'mob' and the like will not in time be looked at as part of our tongue." The fears of the great essayist have been realized and the word is duly accredited. Not only have we the word, but at times we have the sinister thing itself, a strange phenomenon of recklessness, hate, violence, and destructiveness.

It is well settled that at common law a municipality was not liable for damage resulting from mob violence or riots; in other words, that no such liability exists in the absence of statutory provision. Statutes imposing liability have been passed, however, in a number of states. They are based upon the public duty of a municipality to preserve peace and order, and to protect private property. Making taxpayers responsible for a proportionate share of the loss resulting from mob violence tends to incite in them a will to discourage such violence and to make them champions of peace and good order.

The constitutionality of statutes of this character has been assailed in a number of cases, but their validity seems to have been uniformly upheld.

A statute making municipal corporations liable for the destruction "of property" by mobs does not make a city liable for the killing or injuring of a person by a mob.

Gianfortone v. New Orleans, 24 L.R.A. 592, 61 Fed. 64; Jolly v. Hawesville, 89 Ky. 279, 12 S. W. 313. And applying the rule that a statute imposing an absolute liability upon municipal corporations for damage to property by mobs and riots must be strictly construed, it has been decided that the term "property," as used in such a statute, applies only to tangible, as distinguished from intangible, property, and consequently that a city is not liable for injury to a business. Wells, F. & Co. v. Jersey City, 135 C. C. A. 371, 219 Fed. 699.

It has been held that the phrase "injury to life or limb," in a statute making municipal corporations liable for injuries thereto by mobs, applies to all bodily injuries, and not merely to such as result in death or the loss of a limb. Iola v. Birnbaum, 71 Kan. 600, 81 Pac. 198, 6 Ann. Cas. 267. The right to life may be invaded without its destruction. The right to life includes the right of the individual to his body in its completeness and without dismemberment.

Carrying away personal property by a mob is, within the meaning of a law making a municipality liable for property destroyed or injured by a mob, destroying it. Spring Valley Coal Co. v. Spring Valley, 65 Ill. App. 571; Solomon v. Kingston, 24 Hun, 562, affirmed without opinion in 96 N. Y. 651; Sarles v. New York, 47 Barb. 447.

It is no defense to show generally that the municipality was unable, either because of want of power or lack of opportunity, to prevent the injury. Neither is it a defense that the rioters were nonresidents of the municipality, nor that the property destroyed was kept for illegal purposes, nor that it constituted a nuisance, nor that the persons composing the mob acted in fun and intended no serious harm to anyone.

Of course, the act complained of must be that of a mob or riotous assemblage within the meaning of the particular statutes invoked. The general rule is that the primary purpose for which a crowd assembled is not a material element in determining whether a mob existed within the meaning of statutes, it being sufficient that they in fact formed and executed the unlawful purpose after being brought or getting together.

One whose property is destroyed by a mob is not guilty of contributory negligence because he fails to provide an armed force to protect his property, it being the duty of the civil authorities to furnish that protection; and if they are unable to cope with the mob, they have the right to call upon the state for aid. But where the statute requires the owner to give notice of any threatened danger, failure to give the notice generally bars recovery.

The entire subject is discussed in a note in 13 A.L.R. 751.

Relative Rights of Gardeners and Poultrymen

THERE is an "irrepressible conflict" between the man who is attempting to coax his back yard to live up to the illustrations in a seed catalogue, and his neighbor who takes pride in his poultry yard, and relies upon it to augment his bill of fare. Fowls are both ambulatory and predatory, and to successfully defend a garden plot from their ravages is of itself an occupation. This inveterate feud has led from time immemorial to much vituperation over back fences, but has seldom claimed the attention of the higher courts.

In the recent case of Adams Bros. v. Clark, 189 Ky. 279, 224 S. W. 1046, annotated in 14 A.L.R. 738, the question arose whether the owner of trespassing chickens, which have crossed over a lawful fence and eaten and destroyed grain and garden vegetables of great value, of another, is liable for the loss and damage thus occasioned by his fowls. The court upheld the right of the property owner to recover damages for the injury caused by the trespassing fowls, regardless of whether his lands were inclosed or not. The opinion states: In the early history of the state, when settlements were scattered and rural districts but sparsely settled, there was little or no excuse for enforcing the common-law rule against the running at large of fowls; but under present conditions, it is highly important that the owner of fowls should have regard for their roving and wasteful natures, and exercise care to see that they do not do damage to the crops or property of another.

It was argued that the right freely to range their chickens is of the utmost importance to that "great number of people in all the towns and cities, and in the rural districts all over the state, who, by raising and keeping flocks of these valuable fowls, are endeavoring to meet the high cost of living, and make their small salaries and small business enterprises carry them and their families through the year." But the court calls attention to the fact that "the equally important and sacred right of the same class of citizens, equally great in number, to plant and raise a garden or truck patch on their own premises, without annoyance or trouble to neighbors, to help feed themselves and families, and thus tide over the high cost of living period, is wholly overlooked and forgotten. The right of free range to the chicken ends where the equal

right of the gardener begins. The poultryman has rights in his property, just as the gardener has in his, but no greater; and neither is required to yield to the other, except that the one must yield where his rights cease and the other's begin. One must always use his property in a way not to do a legal wrong to another."

The fact that the landowner in this case maintained a barn upon his premises, in which he kept grain, is held not to preclude him, on the theory of attractive nuisance, from holding the owner of fowls which entered the barn and consumed the grain, liable for the value. It is further held that a property owner has no right to kill or injure fowls which he finds trespassing on his property, but must confine himself to his civil rights.

There seems to be a conflict of opinion as to whether the owner of fowls is required to restrain them. In McPherson v. James, 69 Ill. App. 337, and Lapp v. Stanton, 116 Md. 197, 81 Atl. 675, Ann. Cas. 1913C, 755, it was held that domestic fowls straying on the lands of another are not regarded as free commoners, it being the duty of the owner to fence them in; and that a person who sustains loss through the trespass may recover the damage suffered.

But in Missouri the common-law rule requiring the owner of domestic fowls to restrain their running at large is held, in Evans v. McLalin, 189 Mo. App. 310, 175 S. W. 294, to be opposed to the policy of the state; and, in the absence of a statute or municipal ordinance, the rule obtains that fowls are allowed what is called a "free range," and their owner does not become a trespasser from the fact that they stray on the unfenced lands of another.

In Iowa, an owner of domestic fowls is not required to restrain them, or to prevent their running at large, and it is held in Kimple v. Schafer, 161 Iowa, 659, 48 L.R.A.(N.S.) 179, 143 N. W. 505, Ann. Cas. 1916A, 244, that their straying on the land of another does not render the owner liable in trespass. The court remarked: "The customs and habits of our people, with reference to the care of poultry, are so well established and so thoroughly understood, that we think all would be shocked, to say the least, by a pronouncement from this court that they must fence them in, and that in the event any of them flew out and alighted on a neighbor's field the owner was liable in trespass. Again, in the absence of statute, it does not appear to us to be just to enter a decree of mandatory injunction against an owner of chickens, permanently restraining him from permitting them to escape from his inclosure under penalty of contempt for violation of an injunction."

Is One Unemployed a Vagrant?

THE mere fact that one is temporarily unemployed or involuntarily idle does not constitute vagrancy. To hold otherwise would be a great injustice in times of economic depression, when employment is unobtainable, no matter how diligently sought.

In the recent case of Harris v. State, — Tex. Crim. Rep. —, 229 S. W. 875, 14 A.L.R. 1481, it was held that one who is idle for the greater part of a month because of inability to secure work, and who performs such work as he is able to get, and has sufficient means to supply his needs, cannot be convicted of vagrancy, under a statute providing that one shall be guilty of such offense who has no visible means of support and only occasionally has employment at odd jobs, being for the most of the time out of employment. This statute is said to have no application to one whose idleness is temporary and involuntary.

The vagrancy statutes do not contemplate a single instance of idleness, it being necessary to a conviction that the idleness should be an habitual course of conduct. Thus, in the case of Re Jordan, 90 Mich. 3, 50 N. W. 1087, it was held that sleeping in a barn one night and going about the township eight days was not, per se, vagrancy. The court said: "A person may be going about in the community without any visible means of support, and yet be guilty of no offense. This girl, for aught that is stated in this charge, might have been going about from place to place seeking work, with an honest intent to gain thereby a livelihood. To make such going about vagrancy, it must further appear that the person is idle, and seeking to live upon the charity of others, unwilling, although able to do so, to work for his or her maintenance."

A married woman whose husband is not shown to be able to support her cannot be convicted of vagrancy upon proof alone that she is able to work and does not work; and this is true, though she and her husband may be living in a state of separation. Brown v. State, 14 Ga. App. 25, 79 S. E. 1133, wherein the court said: "It is unfortunately true that some husbands do not comply with the legal and highly moral obligation imposed upon them to support their wives. It is punishment enough for a woman to espouse a man unwilling to support her. If

he can and won't, the law will compel him, and will excuse the woman for not doing that which the husband is bound to perform for her. Certainly she is not to be classed as a vagrant merely because she relies upon compliance by her husband with the obligation imposed upon him by law. Married women are often compelled to supplement the income which the ostensible head of the family can earn; but they do this from stern necessity, and not because the law compels them to do it. Sometimes married women support worthless or helpless husbands; but to hold that they were legally bound to do so would put an unwarrantable burden upon the holy estate of matrimony, and make undesirable for the woman a relation into which the law encourages her to enter. In the present state of the law the burden of supporting the family falls upon the husband, in return for which the law crowns him with the proud, but sometimes meaningless, title of 'head of the family.' If he would wear the crown, he must bear the burden."

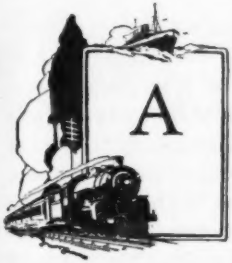
The vagrancy statutes are intended to enforce honest and reputable living; they do not tend to luxury, or compel anyone to earn more than his necessities require. As was said in Daniel v. State, 110 Ga. 915, 36 S. E. 293: "The law does not say how many days in a month or year a man shall devote to labor. The statute was enacted to prevent men, able to work, from idling and wandering about the community and becoming drones, or thieves, or charges upon the public. If a man is able to work, but is idle and has no means of support, there is a great temptation to steal in order to relieve his hunger and supply his bodily necessities. It is to keep him from this temptation that the law commands him to work for his own support."

In Brown v. State, 4 Ala. App. 124, 58 So. 794, it is stated: The vagrancy statute "does not undertake to make it a crime for an able-bodied man occasionally to spend as much as two or three days at a time in idly walking or sitting around the town where he lives."

And here is a word of cheer for the disciples of Izaak Walton. "The evidence shows," remarks the court in Lewis v. State, 3 Ga. App. 322, 59 S. E. 933, "that the defendant did some considerable work during every month prior to his arrest, and that his only relaxation from too constant toil was in 'plying his finest art to lure from dark haunts, beneath the tangled roots of pendent trees,' the alert and wary denizens of the river. Surely it will not be said that while thus engaged he was idling. If he was not successful, all the greater proof of his patient and hopeful labor."

The decisions as to what amounts to vagrancy are gathered in a note in 14 A.L.R. 1482.

Misinforming Passenger as to Time



A RAILROAD kept in a conspicuous place, on the wall of its waiting room, a clock which was kept running, and which was designed for the information of passengers. A woman, desiring to become a passenger, consulted the waiting-room clock, and, because of the fact that the timepiece was slow, missed her train. The court held in the Alabama case of Louisville & N. R. Co. v. Clark, 87 So. 676, 14 A.L.R. 695, that the carrier was under no duty to furnish a clock in its waiting room for the use of passengers, but that, having undertaken to inform passengers of the time by means of a clock, it was bound to use due care in its maintenance, so that a passenger would not be misled thereby. The carrier was said to be as liable for misdirection or misinformation given its passengers by means of the agency of the clock maintained in its depot, as it would have been for the misinformation of a passenger by an authorized employee.

It is well settled that, where an employee of a railroad company misinforms a passenger as to the time of the departure of a train or of its arrival at destination, the carrier is liable for damages which are the direct result of the misinformation.

Thus, in Sears v. Eastern R. Co. 14 Allen, 433, 92 Am. Dec. 780, a carrier was held to have violated its contract with one who, in reliance upon the train schedule published in the daily papers, purchased a ticket to his destination, but on arriving at the station found that the hour of the train's departure had been postponed, notice of which had been posted in the cars and depot. If the railroad company, states the court, "wished to free themselves from their obligation to the whole public to run a train as advertised, they should publish notice of the change as extensively as they published notice of the regular trains." And, as to the passenger, "he was not bound by a notice published in the cars and stations, which he did not see. If it had been published in the newspapers where his information had in fact been obtained, and he had neglected to look for it, the fault would have been his own."

So, one purchasing a ticket was held entitled, in Van Camp v. Michigan C. R. Co. 137 Mich. 467, 100 N. W. 771, to rely upon a time-

table exhibited by the authorized agent, and which showed that the train she intended taking would make close connections with another train at a transfer point, but which failed to do so because of a change in the schedule. "She was under no obligation," remarks the court, "to look for a schedule posted in the depot or published in the newspapers."

One misinformed by a ticket agent as to the time of the departure of a certain train, and who, by reason of this misstatement, missed the train and was compelled to motor to his destination in a snowstorm, was held entitled to recover the actual damages sustained by reason of the misinformation, in the North Dakota case of Weeks v. Great Northern R. Co. 175 N. W. 726, annotated in 8 A.L.R. 1178.

Likewise, it has been decided that, where a ticket agent erroneously informed a passenger that a certain train would make a close connection with the train of another railroad at a specified junction, the giving of such information is negligence, and the railroad company was held liable for the direct consequences in Fowlkes v. Southern R. Co. 96 Va. 742, 32 S. E. 464.

And in Turner v. Great Northern R. Co. 15 Wash. 213, 55 Am. St. Rep. 883, 46 Pac. 243, it was held that the railroad company was bound by a statement of the ticket agent, made at the time of the sale of the ticket, as to the time of the arrival at destination, when conditions existed at that time, due to a serious break in the roadbed, which made through carriage on schedule time impossible.

Misinformation given by a ticket collector as to the time of trains is within the scope of the duty of that official, and the carrier was held liable for the injuries received by the passenger as a result of such misinformation, in Wilcox v. Southern R. Co. 91 S. C. 71, 74 S. E. 122. But it appears that a carrier is not liable for misinformation as to the time of the departure of trains, made by its policeman in its station. See Wells v. Alabama G. S. R. Co. 67 Miss. 24, 6 So. 737.

A Startling Prospect

THAT the chemist may revert to the alchemist, and transmute baser metals into gold, is the alarming prediction of Mr. Thomas A. Edison, who is quoted as saying:

"The discovery of how to make gold artificially may be made any day. I have said this for years. I have always felt that the gold clause in bonds is dangerous. This clause provides that the bonds shall be paid in gold of a certain degree of fineness. What would the people who own railway bonds say if they should wake up some morning and find that gold could be manufactured as cheaply as we now make pig iron? Well, that is exactly what will happen some day —and it may happen any day."

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Don'ts for Automobilists

THE almost universal use of automobiles has given rise to a rapidly expanding body of case law dealing with the numerous exigencies that beset the life of the motorist. His rights and duties are being defined daily by the courts. The following rules for the guidance of drivers have been gleaned from the recent decisions:

1. Don't think that because a pedestrian is crossing a street diagonally at a place other than a street intersection, in violation of an ordinance, that you are relieved from the duty of maintaining a lookout for him. This was held in the Alabama case of Ivy v. Marx, 87 So. 813, annotated in 14 A.L.R. 1173, where the court refused "to give the ordinance a construction which would sanction a relaxation of vigilance on the part of drivers of automobiles upon the public streets."

A pedestrian has a right, in the absence of prohibition by statute or ordinance, to cross a street at any point, either directly or diagonally, and is not restricted to the regular crossings, and the driver of an automobile owes him the duty of reasonable or ordinary care in the circumstances.

But it is said that the driver of a vehicle is not under the duty of using as much care toward one so crossing between street intersections, as toward one using a regular crosswalk, under the rule, applicable to both places, of ordinary care, which requires him to use such care as an ordinarily prudent person would exercise under the particular circumstances. This general principle is equally applicable to children so crossing, as compared with children at a regular crossing; but, as appears from the cases, the driver must exercise more care toward a child crossing the street between blocks than toward an adult in the same circumstances, the relative difference in care varying according to the age, physical condition, etc., of the child.

It may be stated that this whole question is solved by the rule of ordinary care.

2. Don't approach railroad tracks at a rate of speed which will preclude you from stopping before reaching the zone of danger, if you know that the brakes of your automobile are in defective condition.

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Such conduct was declared to amount to more than a slight want of ordinary care in Puhr v. Chicago & N. W. R. Co. 171 Wis. 154, 176 N. W. 767, annotated in 14 A.L.R. 1334. But if you drive your automobile towards a railroad crossing with the intention of stopping to let a train pass, you are not negligent if, upon making reasonable effort to stop, you discover too late that the brakes fail to work, so that the machine goes upon the track in front of the train.

3. Don't drive at night with a headlight insufficient to disclose the fact that you are approaching a railroad crossing the highway at a grade, in time to stop the car before going upon the tracks. This is laid down in Serfas v. Lehigh & N. E. R. Co. 270 Pa. 306, 113 Atl. 370, annotated in 14 A.L.R. 791. It seems to be fairly well settled that the neglect of the operator of an automobile, traveling at night, to comply with statutory requirements as to lights, or to have such lights as will disclose the condition of the road, and to discover obstacles and dangerous places in time for his own safety, constitutes such negligence on his part as will preclude recovery for damages resulting from the negligence of another; at least, in the absence of proof that his failure to have proper lights did not contribute to the injury, contributory negligence having been set up as a defense.

4. Don't attempt to drive your automobile across a street car track and in front of a car which has stopped to discharge passengers, without first looking to ascertain if the car has started, since there is no implied invitation to a motorist to cross the track in front of such a car. If you do so, your conduct is held in Dering v. Milwaukee Electric R. & Light Co. 171 Wis. 8, 176 N. W. 343, annotated in 14 A.L.R. 809, to constitute contributory negligence.

Finally, our readers are justified in advising wayward clients:

5. Don't take and attempt to sell an automobile to finance an elopement with the owner's wife, although you act at her instance. This was held to constitute larceny in the Virginia case of Ambrose v. Com. 106 S. E. 348, annotated in 14 A.L.R. 1268.

He Left Security.—A country club housewife hired a darky to carry 3 tons of coal from the curb to the basement the other day. A little later the housewife discovered that she had no money except a $5 bill. Calling the darky, who was about half through with the job, she asked him if he could change the bill so that he could get his pay.

"No'm," he replied, "I can't. But I c'n git it changed over at de grocery sto'e."

The woman hesitated, trying to decide whether to take a chance.

"Don't you worry, Missus," the darky assured her. "I'll come back wid de change. An' just to show you it's all right, I'll go after it right now, and leave this other ton of coal I ain't carried in yet out in the street as s'curity."

—Kansas City Star.

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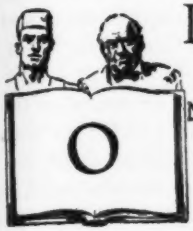
Liability of Employer for Damages Due to Employee's Smoking



ONE contracting to set trees in a field covered with parched grass must use reasonable means to protect the property from fire which may be set by carelessness of his employees in indulging their habits of smoking. This was decided in the New Hampshire case of Palmer v. Keene Forestry Asso. 112 Atl. 798, annotated in 13 A.L.R. 995. The liability in this case is put on the ground that the master was charged with knowledge of the propensity of his employees to smoke while at work, and with knowledge of the peculiar susceptibility of the property on which they were working to take fire, and therefore he should have taken the proper steps to prevent a fire. The court specifically holds to be inapplicable the question of the liability of a master for the act of a servant, as dependent on whether the act was in the scope of his employment.

Attention may be called to the case of Eaton v. Lancaster (1887) 79 Me. 477, 10 Atl. 449, in which it was held that a livery-stable keeper could not be held liable for the burning of a horse intrusted to him, by a fire which destroyed his stable, on the ground that it was started by his servants while smoking in the hayloft, where they had gone to spend the night, after their day's work was ended. The court said: "Neither of the three men were in the performance of any act for the defendants during that night, but were acting as they pleased, for their own pleasure."

In Jefferson v. Derbyshire Farmers [1921] 2 K. B. 281, 13 A.L.R. 989, it was held that one who had arranged with the lessees of a garage for the storage of his motor cars therein was liable for its destruction by fire caused by the act of his employee, who, while drawing benzol from a drum into a tin, struck a match, lit a cigarette, and then threw the match down where it set fire to some petrol on the floor, and the fire spread to the benzol. This decision is based on the theory that the employee was not doing, with reasonable care, the work in which he was engaged. It will be perceived that in order to justify this reasoning, the act of the servant in drawing the benzol in the presence of fire, rather than his act in throwing down a lighted

match, must be regarded as the proximate cause of the injury.

The question whether an injury sustained by a servant through smoking is one arising out of and in the course of his employment, so as to entitle him to statutory compensation, was answered in the affirmative in the California case of Whitney-Mead Commercial Co. v. Industrial Acci. Commission, 173 Pac. 1105, 5 A.L.R. 1518, and annotation thereto appended. This case upheld an award of compensation for an injury to the hand of one employed in the business of wrecking houses, who, while lighting a cigarette in working hours, ignited a bandage saturated with turpentine which he wore about his hand to alleviate the pain of a nail wound. The position taken by the court in this case, to the effect that the employer must expect his employee to resort to the use of tobacco as a necessary adjunct to the discharge of his employment, is recognized in every case in which the question of awarding compensation to an employee who was injured through smoking has been considered.

Strenuous Proselyting. It is recorded in Wetmore v. White, 2 Cai. Cas. 87, 2 Am. Dec. 323, that the owner of a moiety of the bed of a creek which supplied water for the use of a sawmill and gristmill threatened to cut down the dam, by means of which the water was utilized, unless the proprietor of the mills would become a Presbyterian and join the congregation under the charge of the Reverend Bethuel Dodd.

Recent Important Cases

Bank—*deposit after banking hours — liability.* A bank is held not relieved from liability for a deposit made after banking hours if it was its custom to receive deposits at that time for accommodation of customers, in the Arkansas case of Farmers' Bank & Trust Co. v. Boshears, 231 S. W. 10, annotated in 15 A.L.R. 426.

Bank — *duty of depositor to ask for statement.* In the absence of an agreement, express or implied, between a bank and a depositor, the depositor is held not bound in McCarty v. First Nat. Bank, 204 Ala. 424, 85 So. 754, to ask for a statement of his account at any time, or initiate an inquiry as to whether or not there are irregularities in his account.

This decision is accompanied in 15 A.L.R. 153, by a note on the examination of account, pass book, or canceled checks by a bank depositor.

Bills and notes — *signing as witness — right to show.* One who with knowledge of the payee signs a note as witness, and qualifies his signature by prefixing the word "Witness" to it, is held entitled in the California case of Figari v. Olcese, 195 Pac. 425, annotated in 15 A.L.R. 192, to show that his name was written and accepted in that capacity alone.

Blasphemy — *what is.* That one is guilty of blasphemy who, in a public lecture, impugns the Immaculate Conception of Christ in coarse and vulgar language, and characterizes religion as a humbug and deception, in a manner to provoke laughter and applause from the audience is held in the Maine case of State v. Mockus, 113 Atl. 39, annotated in 14 A.L.R. 871.

Carrier — *liability for robbery of passenger.* A carrier is held not liable in Beasley v. Hines, 143 Ark. 54, 219 S. W. 757, for assault upon and robbery of a passenger riding in a freight car to care for his stock, by one who, without knowledge of the train crew, enters the car under false pretenses while it is standing in a freight yard.

The liability of a carrier to a passenger for assault by a third person is discussed in the note appended to this case in 15 A.L.R. 864.

Charity — *negligence in selecting servants — liability.* A hospital run as a charity is held not answerable in tort to a patient for negligence of its managing officers in selecting incompetent servants and agents, in Roosen v. Peter Bent Brigham Hospital, 235 Mass. 66, 126 N. E. 392, which is followed in 14 A.L.R. 563, by a note on the liability of a privately conducted charity for personal injuries.

Check — *liability for stopping payment.* A drawer who stops payment of a check is held answerable to the holder for the consequences of his conduct, in the Iowa case of Patterson v. Oakes, 181 N. W. 787, annotated in 14 A.L.R. 559.

Constitutional law — *loans to war veterans — donation.* A statute authorizing loans to war veterans to enable them to purchase land is held not to be a personal gratuity or donation forbidden by the Constitution in the South Dakota case of Wheelon v. South Dakota Land Settlement Bd. 181 N. W. 359, which is accompanied in 14 A.L.R. 1145, by a note on the constitutionality of a statute authorizing a state to loan money or engage in business of a private nature.

Constitutional law — *garbage monopoly — property rights.* Forbidding the transportation of garbage through the streets of a municipality

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by other than a duly appointed contractor is held not to unconstitutionally interfere with property rights in Wheeler v. Boston, 233 Mass. 275, 123 N. E. 684, which is accompanied in 15 A.L.R. 275, by a note on the validity of statutory or municipal regulation as to garbage.

Contempt — *violation of injunction — want of knowledge.* That one not a party to an injunction suit cannot be punished for contempt in violating the injunction if he has no knowledge of it, is held in the Washington case of State ex rel. Lindsley v. Grady, 195 Pac. 1049, which is followed in 15 A.L.R. 383, by a note on violation of injunction by one not a party to injunction suit.

Contract — *to surrender child — validity.* A contract by a parent to surrender his child to another, in consideration of the latter's promise to leave his property to the child at death, is held void as against public policy in the Texas case of Hooks v. Bridgewater, 229 S. W. 1114, annotated in 15 A.L.R. 216.

Corporation — *liability of stockholders — claim for tort.* Liability of a corporation for wrongfully appropriating another's property to its own use, although reduced to judgment, is held in Clinton Min. & Mineral Co. v. Beacom, — C. C. A. —, 266 Fed. 621, annotated in 14 A.L.R. 263, not to be a debt within the meaning of a statute making stockholders liable for corporate debts.

Damages — *mitigation — breach of contract for trucking.* The rule that one contracting to render personal services must seek other employment upon breach by the other party to the contract, in order to minimize damages, is held to have no application to a breach of a contract to utilize teams to be furnished by plaintiff for trucking, in the Massachusetts case of Mount Pleasant Stable Co. v. Steinberg, 131 N. E. 295, to which is appended in 15 A.L.R. 751, a note on contracts within the rule which requires one to use reasonable effort to obtain other employment in order to minimize damages from breach of contract.

Death — *distribution of recovery — basis.* The distribution among the heirs of money recovered for the wrongful death of their ancestor it is held in the California case of Re Riccomi, 197 Pac. 97, must be on the basis of the pecuniary loss, and not in the proportion fixed by the Statutes of Distribution.

The subject of division among beneficiaries of an amount awarded by a jury or received in settlement upon account of wrongful death is treated in a note in 14 A.L.R. 509.

Electricity — *liability for injury to trespasser.* A municipal corporation which negligently permits its electric wires to be down on private property is held not liable for injury to a trespasser on such property who comes into contact with them in Henderson v. Ashby, 179 Ky. 507, 200 S. W. 931, annotated in 14 A.L.R. 1018, on the liability of one maintaining high tension electric wires over the private property of another for injuries thereby inflicted.

Evidence — *custom of deceased — care at railroad crossing.* In the absence of an eyewitness of a crossing accident, in which one attempting to drive a team across a railroad track was killed, evidence is held to be admissible of his habit of care and caution under such circumstances, in the California case of Wallis v. Southern P. Co. 195 Pac. 408, annotated in 15 A.L.R. 117, on habit, custom, or reputation of one injured or killed as evidence of his own negligence or freedom from negligence.

Evidence — *of perjury — circumstantial.* That perjury may be proved by circumstantial evidence if it establishes guilt beyond a reasonable doubt is held in the Minnesota case of State v. Storey, 182 N. W. 613, annotated in 15 A.L.R. 629.

Executor and administrator — — *personal liability for tort in continuing business of testator.* The executrix and sole beneficiary of a decedent is held to be personally liable for torts committed by her in continued prosecution of the business of her testator in Fisher v. McNeely, 110 Wash. 283, 188 Pac. 478, accompanied by supplemental annotation in 14 A.L.R. 369.

Forgery — *procuring signature by fraud.* Where by statute forgery is the fraudulent making or alteration of any writing to the prejudice of another's right, the procuring of a signature to a deed by fraud is held not to be forgery in Austin v. State, 143 Tenn. 300, 228 S. W. 60, which is accompanied in 14 A.L.R. 311 by a note on procuring a signature by fraud as forgery.

Garage — *duty to drain water from radiator in freezing weather.* The keeper of a garage with whom an automobile is stored for hire is held bound in the Oregon case of Simms v. Sullivan, 198 Pac. 240, to use such ordinary care as a man of ordinary prudence and discretion ought to exercise and would be expected to exercise if the property were his own, to prevent injury to the car by draining the water from the cooling system in freezing weather.

A note on the duty and liability of garage keeper to owner of cars is appended to this case in 15 A.L.R. 678.

Habeas corpus — *person out on bail.* That habeas corpus does not lie to secure release of one at large on bail is held in the Missouri case of Hyde v. Nelson, 229 S. W. 200, annotated in 14 A.L.R. 339.

Highway — *unsafe sidewalk — débris from fire — liability of occupant of building.* An occupant of a building abutting on a highway is held in the Massachusetts case of Tiffany v. F. Vorenberg Co. 130 N. E. 193, 14 A.L.R. 222, not to be liable for injury

to a passer-by by the original accumulation of ice and débris upon the sidewalk because of the efforts of the city fire department to extinguish a fire which threatened to consume the building.

Highway — *blocking — freedom from negligence — liability for injury.* A railroad company which is not negligent toward travelers on a highway in blocking the crossing at night with a train is held not liable in the Delaware case of Philadelphia & R. R. Co. v. Dillon, 114 Atl. 62, for injuries to either an automobile driver or his guest by collision with the train, notwithstanding they may also have been free from negligence.

The liability of a railroad for an injury due to a road vehicle running into a train or car standing on a highway crossing is treated in the note which accompanies this decision in 15 A.L.R. 894.

Homicide — *murder — striking with fist.* That no inference of an intent to kill is warranted from the striking of a person on the head with the fist, although death results, so as to constitute murder, is held in People v. Crenshaw, 298 Ill. 412, 131 N. E. 576, which is followed in 15 A.L.R. 671, by a note on inference of intent to kill where killing is by blow without weapon.

Husband and wife — *desertion — wife's liability on contracts.* Where a husband deserts his wife and departs from the state, leaving her without maintenance or support, and remains absent therefrom continuously, with an intent to renounce the marital relation, and leaves her to act as a feme sole, and she so acts, she is held liable to be sued on her contract the same as though she were unmarried, in the Nebraska case of Peterson Bros. & Co. v. Gunnarson, 182 N. W. 505, which is accompanied in 15 A.L.R. 830, by a note on the liability of a married woman for necessaries.

Insurance — *theft — automobile — member of household.* Theft of an automobile by the nephew of the owner, who is temporarily visiting him, is held in the Maryland case of Rydstrom v. Queen Ins. Co. 112 Atl. 586, to be within the exception of a policy insuring the automobile from theft excepting by any person in the assured's household.

The subject of insurance against the theft of an automobile is discussed in the note which accompanies this case in 14 A.L.R. 212.

Insurance — *accident — death from overexertion.* Overexertion, resulting in hemorrhage and death, is held not to be an accidental means of death within the meaning of an accident insurance policy in Olinsky v. Railway Mail Asso. 182 Cal. 669, 189 Pac. 835, which is followed in 14 A.L.R. 784 by supplemental annotation on death or injury resulting from the insured's voluntary act as caused by accident or accidental means.

Insurance — *against collision — upset as collision.* The insurance of an automobile against injury from collision with any other automobile, vehicle, or object is held in the Wisconsin case of Bell v. American Ins. Co. 181 N. W. 733, 14 A.L.R. 179, not to include injury due to the upsetting of the machine because of one side sinking into soft earth, since the word "collision" does not describe such an accident.

Insurance — *default in premium — forfeiture.* When a life insurance policy provides for a forfeiture of the insurance in case of a failure to pay premium, the policy, in case of failure to pay, is held forfeited, in New York L. Ins. Co. v. Alexander, 122 Miss. 813, 85 So. 93, and sickness or insanity will not avoid the forfeiture.

The question of forfeiture for nonpayment of premiums or assessments as affected by physical or mental disability is treated in the note appended to this case in 15 A.L.R. 314.

Landlord and tenant — *eviction — foreclosure of mortgage.* That foreclosure of a mortgage on leased property does not, prior to the sale, constitute an eviction of the tenant, is held in Metropolitan L. Ins. Co. v. Childs Co. 230 N. Y. 285, 130 N. E. 295, which is annotated in 14 A.L.R. 658, on the effect of the foreclosure of a mortgage as terminating a lease.

Marriage — *annulment — fictitious name.* That a man, to induce a woman to marry him, assumes a fictitious name and misrepresents his place of residence and his social and financial standing, is held not to be a ground for annulment of the marriage in the Massachusetts case of Chipman v. Johnston, 130 N. E. 65, which is accompanied in 14 A.L.R. 119 by a note on misrepresentation or mistake as to identity or condition in life of one of the parties as affecting validity of marriage.

Master and servant — *permitting infant on truck — injury — liability.* Where an employee, to whom the owner has committed the operation of an auto truck in the owner's business, permits an infant to ride on the truck in violation of his instructions, and the infant is injured by the wanton and wilful conduct of the employee, while in the course and in the scope of his employment, the owner is held to be responsible in the Ohio case of Higbee Co. v. Jackson, 128 N. E. 61, which is annotated in 14 A.L.R. 131, on the liability of a master for an injury to one whom his servant, in violation of instructions, permits to ride on a vehicle.

Monopoly — *right to contract for exclusive use of platform for baggage solicitation.* Statutory authority to a railroad to inclose its stations, and exclude from the inclosures all persons except travelers, is held in the

New Jersey case of Thompson's Exp. & Storage Co. v. Mount, 111 Atl. 173, to empower it to contract to give exclusive rights to one wishing to solicit patronage for baggage and passenger transfer service within the inclosure.

The right to give exclusive privilege of soliciting patronage at railroad stations or on trains is treated in the note which follows this case in 15 A.L.R. 351.

Parent and child — *effect of divorce on duty to support child.* That a man with adequate estate may be required to pay the value of necessaries furnished his minor children by the mother from her own adequate estate, although she was given their custody when the parents were divorced, is held in the Texas case of Gully v. Gully, 231 S. W. 97, which is accompanied in 15 A.L.R. 569, by a note on the liability of a father for support of children awarded to mother by decree of divorce not providing for maintenance.

Perpetuity — *bequest to care for burial ground.* A bequest to an individual in trust to care for a private burial ground, without limitation as to time, is held to be void as a perpetuity in the Rhode Island case of Shippee v. Industrial Trust Co. 110 Atl. 410, which is followed in 14 A.L.R. 115 by supplemental annotation.

Witness — *impeachment — drug habit.* Evidence that a witness was addicted to a drug habit is held admissible upon the question of the reliability of the testimony given by him, in the Iowa case of State v. Prentice, 183 N. W. 411, annotated in 15 A.L.R. 904, on the use of drugs as affecting the competency or credibility of a witness.

Witness — *impeachment — opinion as to mental capacity.* The usual method of impeaching the credibility of a witness as one who will not tell the truth and is unworthy of belief is to show the bad general reputation of the witness for truth and veracity in the community where she lives, by impeaching witnesses who know that reputation. It is held not proper in the West Virginia case of State v. Driver, 107 S. E. 189, to permit medical experts, who have heard only a portion of the evidence given, to testify from what they have heard and seen in the court room, and from observation of the witness on the stand, that she is what is termed in the medical profession a "moron," and belongs to a kind or class of morons who are prone to tell lies, and that therefore she is unworthy of belief, and no weight should be given to her testimony.

The impeachment of a witness by expert evidence tending to show mental or moral defects is treated in the note appended to this case in 15 A.L.R. 917.

Workmen's compensation — *assault by fellow servant — personal quarrel.* An injury from an assault by one employee upon another, because the latter would not get or give him a drink of water, is held not to arise out of the employment within the meaning of the Workmen's Compensation Act, in Chicago v. Industrial Commission, 292 Ill. 406, 127 N. E. 49, annotated in 15 A.L.R. 586, on workmen's compensation: injury from assault.

A Gracious Custom

IT SEEMS that in the good old days, when a wife released her dower right, she was entitled to receive a present from the purchaser of the property. This is disclosed by a statement of Chancellor De Saussure in Hall v. Hall, 7 S. C. Eq. (2 M'Cord) 276, decided in 1826, where he says: "I will not stop to inquire into the capacity of the wife thus to contract with her husband for the renunciation of her legal rights, nor into the old custom of the country, now disused, that the purchaser, in order to make his purchase secure, must give the wife a gown or a petticoat for the renunciation of her dower."

A.L.R. Annotations

The following Subjects in addition to those mentioned under Recent Important Cases will be found exhaustively Annotated in 15 A.L.R.

Alimony — Service of notice to modify decree in respect of alimony upon attorney who represented adverse party in the suit. 15 A.L.R. 627.

Alimony — Wife's possession of independent means as affecting her right to temporary alimony or allowance for support of children. 15 A.L.R. 781.

Automobile — Negligence in stopping automobile on street car track for purpose of taking on or letting off person. 15 A.L.R. 236.

Autopsy — Provisions for autopsy in policy of life or accident insurance. 15 A.L.R. 614.

Bail — Right to give bail in civil action or proceeding. 15 A.L.R. 1079.

Bail — Surrender of principal by sureties on bail bond. 15 A.L.R. 1524.

Banks — Interest on certificate of deposit after maturity. 15 A.L.R. 650.

Banks — Right of bank to charge back check drawn upon itself, which it has credited to a depositor under mistaken belief that the drawer's account is good. 15 A.L.R. 709.

Bills and notes — Payee as a holder in due course under the Negotiable Instruments Law. 15 A.L.R. 437.

Blue Sky Laws — 15 A.L.R. 262.

Bounties or pensions — Constitutionality of statutes providing for bounty or pension for soldiers. 15 A.L.R. 1359.

Breach of promise — Differences as to the time, place, or other circumstances of proposed marriage as defense to action for breach of promise to marry. 15 A.L.R. 1303.

Carriers — Consideration of body of rates in determining the reasonableness of carrier's rate for a particular commodity. 15 A.L.R. 185.

Carriers — Duty of carrier to shipper as to condition of stock pens or yards. 15 A.L.R. 200.

Corporations — Liability of corporation for debts of predecessor. 15 A.L.R. 1112.

Courts — Validity and effect of provisions limiting the power of courts to declare a statute unconstitutional. 15 A.L.R. 331.

Evidence — Use in criminal case of testimony given on former trial, or preliminary examination, by witness not available at present trial. 15 A.L.R. 495.

Gaming — Connection with place where gaming is carried on which will render one guilty as keeper thereof. 15 A.L.R. 1202.

Homicide — Responsibility of persons participating in jail delivery for homicide committed by one of their number. 15 A.L.R. 456.

Income tax — Accretions of value determined by sale as income. 15 A.L.R. 1311.

Injunction — Right of infant to enjoin other party to contract from asserting its validity. 15 A.L.R. 1215.

Insurance — Health insurance: provisions excluding or limiting liability in case of chronic diseases. 15 A.L.R. 1239.

Insurance — Oral contracts of insurance. 15 A.L.R. 995.

Insurance — Rights and remedies arising out of delay in passing upon application for insurance. 15 A.L.R. 1026.

Insurance — Validity, construction, and effect of provision in life or accident policy in relation to military service. 15 A.L.R. 1280.

Intoxicating liquors — Criminal responsibility of one unlawfully furnishing intoxicating liquor for death resulting from its use. 15 A.L.R. 244.

Judgment — Right of infant to set aside consent judgment in action for personal injuries. 15 A.L.R. 667.

Landlord and tenant — Liability of landlord for damage to tenant's goods through negligence in making repairs. 15 A.L.R. 971.

Libel and slander — Privilege of communication in relation to member, or prospective member, of society other than church. 15 A.L.R. 453.

Libel and slander — Privilege of statement or communication by official charged with prosecution or detection of crime. 15 A.L.R. 249.

Life tenant — Death of life tenant as affecting rights under lease executed by him. 15 A.L.R. 659.

Mines — Duty of an employer with respect to the timbering of a mine, under

Continued on page 185

the common law and general statutes. 15 A.L.R. 1380.

Mines — Duty of an employer with respect to the timbering of a mine under statutes relating specifically to the subject. 15 A.L.R. 1430.

Mines — Effect of act or joint resolution of Congress suspending requirement of assessment work on mining claims. 15 A.L.R. 942.

Mines — Right of owner of title to or interest in minerals in place under one tract to use the passages therein for transporting minerals taken from another tract. 15 A.L.R. 957.

Money in court — What rights are waived by insurer who pays money into court. 15 A.L.R. 1260.

Municipal corporations - Statutory or municipal regulation of removal of ashes or other rubbish. 15 A.L.R. 309.

Negligence — Imputing negligence of parent or custodian to child in action by or on behalf of child for personal injury. 15 A.L.R. 414.

Oil and gas lease — Rent in lieu of development under oil and gas lease as payable in advance. 15 A.L.R. 604.

Public service corporations — Franchise provision for free or reduced rates by public service corporation as within constitutional or statutory provision prohibiting discrimination. 15 A.L.R. 1200.

Public utilities — Irrigation company as a public utility. 15 A.L.R. 1227.

Railroads — Duty to have forward light on car or train preceding engine or on engine running backwards. 15 A.L.R. 1527.

Receivers — Applicability of penal statutes to railroad receivers. 15 A.L.R. 1372.

Schools — Interruption of school session as affecting contract other than with teacher. 15 A.L.R. 725.

Taxes — Deduction of salaries in computing excise or income tax of corporation. 15 A.L.R. 1316.

Taxes — Income tax on nonresident. 15 A.L.R. 1326.

Timber — Rights of parties to a timber contract upon failure of purchaser to remove the timber within the time fixed or within a reasonable time. 15 A.L.R. 41.

Trial — Duty of court in criminal case, in absence of request, to charge with respect to circumstantial evidence. 15 A.L.R. 1049.

War — Rights of parties to contracts the performance of which is interfered with or prevented by war conditions or acts of government in prosecution of war. 15 A.L.R. 1512.

Witness — Admissibility of evidence of good reputation for truth and veracity of witness who has not been impeached. 15 A.L.R. 1065.

Witnesses — Waiver by beneficiary or personal representative, in action on insurance policy, of privilege of communications to physician. 15 A.L.R. 1544.

New Book Announcements

RANDALL, INSTRUCTIONS TO JURIES, 5 volumes $50.00
(Volume 1 ready January, 1922. Remaining volumes of the set issued one per month.)

BLACK, BANKRUPTCY, 3d edition, 2 volumes 20.00
(Ready January, 1922.)

HOLMES, FEDERAL TAXATION, 1 large volume 10.00
(Ready January, 1922.)

SCHNEIDER, WORKMEN'S COMPENSATION, 2 volumes 18.00
(Now ready.)

HOPKINS, FEDERAL EQUITY RULES, 3d edition, 1 volume 3.50
(Now ready.)

All of the above works are Co-op. Recommended.

"545 U. S. TAX CASES." By Kix-Miller and Baar. (Commerce Clearing House, Chicago.) 700 pages $10.00

This book contains a brief of every court case decided up to its date of issue which bears on any Federal tax point. The briefs include Federal and state decisions on Income Taxes, Excess Profits Taxes and Inheritance, Stamp and Miscellaneous Business Taxes. There is also included a selection of leading decisions by the Committee on Appeals and Review, Bureau of Internal Revenue. The facts are stated and the judges' opinions have, in many cases, either been given in full or quoted from extensively, so that the points of law are clearly presented. An average of 300 words has been given to each case.

The volume will be of great assistance in determining the scope and validity of the new tax law and regulations.

Chief Aids of New Supreme Court Clerk

PHILANDER R. STANSBURY and C. Elmore Cropley were recently appointed deputy clerks of the United States Supreme Court. Mr. Stansbury, who is a brother of William R. Stansbury, clerk, has been an employee of the court for the last twenty-four years. Mr. Cropley has been connected with the court since 1917, starting as a page. He is twenty-seven years of age, and the youngest official ever appointed by the court.

An All-Lawyer Jury

A JURY composed entirely of attorneys was selected to try a $2,000 damage case in Ohio. The experiment attracted wide attention. Bets are said to have been made that the jury could never agree One paper commented: "The defendant runs considerable risk of dying from old age before the jury decides on a verdict." But these doleful prophets were discredited when the jury returned a verdict after deliberating for forty minutes.

Odd Bequest. "The right mummy hand of Pharaoh's daughter, who rescued Moses from the waters of the Nile," was left to Bradley Polytechnic Institute in the will of the late Mrs. Annie E. Petherbridge, filed recently at Peoria, Illinois, for probate.

Mrs. Petherbridge was a well-known Bible student, and with her husband made several trips to the Holy Land.

The Lure of a Name. Among those arraigned before Judge Odlin in the district court of Porto Rico, charged with violating the Volstead Law, was Fabriciano Feliciano, which, being translated from the Spanish into English, signifies "fabricating happiness." He admitted the charge.

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Busy Bees

THE circuit court at Kansas City is said to have reversed a conviction, under a municipal ordinance, for "harboring vicious bees," and to have ordered a remission of the fine imposed upon the defendant, one of whose bees had stung a child.

Similarly, a municipal ordinance declaring the keeping of bees to be a nuisance, and making it unlawful for anyone to own, keep, or raise them within the city limits, was held to be too broad and invalid in Arkadelphia v. Clark, 52 Ark. 23, 20 Am. St. Rep. 154, 11 S. W. 957.

Recently an apiarist in western New York reported that swarms of bees had flown into his warehouse through a broken window and drained about 2 tons of honey, valued at $1,000, out of his combs. He picked up 4 bushels of bees that had fallen exhausted.

The bee, being a synonym for industry, by a strict attention to its own affairs, has been able to prevent, except in a few instances, the animadversion of the courts. In Parsons v. Manser, 119 Iowa, 88, 97 Am. St. St. Rep. 283, 93 N. W. 86, annotated in 62 L.R.A. 132, it was held that a keeper of bees must exercise ordinary prudence in locating their hives so as to avoid unnecessary danger to those who are likely to make lawful use of the premises or the highway near by, and that he may be found guilty of negligence in placing the hives near a hitching post, when he knew that bees are prone to attack perspiring horses.

In Earl v. Van Alstine, 8 Barb. 630, 1 Am. Neg. Cas. 368, which was an action for damages due to the death of a horse stung by bees, the owner was declared not liable, at all events, for any injury they might do, but only upon proof that he had previous notice of their propensity to do the mischief.

The mere finding of bees in a tree on the land of another person is held in State v. Repp, 104 Iowa, 305, 65 Am. St. Rep. 463, 73 N. W. 829, 40 L.R.A. 687, to give the finder no right to the bees or to the tree.

Murder by Witchcraft

A CASE is reported from the Soudan of a native who, making an image of an enemy, then many miles distant, thrust a thorn into the breast of the doll, pushing it in little by little each day, and keeping his enemy informed by devious ways of his actions. The superstitious enemy, convinced that what was being done to his simulacrum reacted upon his own body, persuaded himself that he was being stabbed to the heart, and duly died of fear, or nervous shock, or whatever thing does kill upon such imaginings. At the instance of the dead man's fellow tribesmen, the wizard was put on his trial before the British judges and was convicted of murder. The decision is said to have aroused acute controversy, but it seems to us that if the man convicted formed the intent to murder by what may indeed, to us, appear foolish and futile methods, but which to him were effective, and knew that his adversary was likely to die as a result, when that adversary did in fact succumb to what he regarded as his enemy's fatal enchantment, all the necessary ingredients of murder were present. There was the malice aforethought, the action calculated to cause, and followed by death.

It is odd to think that less than 200 years ago the black man could have been indicted in this country under the Statute 1 Jac. chap. 12, for "witchcraft in the first degree." One offense of witchcraft in the first degree was "exercising any witchcraft, enchantment, charm, or sorcery, whereby any person shall be killed, destroyed, consumed, or lamed in his or her body, or any part thereof." The enchantment had to be effective for the offense to be complete.—The Justice of the Peace (London, England).

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Travels Out of the Record

Supplemented Proverb.

"It takes nine tailors to make a man,"
And often, so they say,
It takes nine lawyers afterward
To make the fellow pay.
—Boston Transcript.

A Clean-cut Issue. White v. Black, 59 Mont. 98.

Trouble in the Garden. Violet v. Rose, 39 Neb. 660, 38 N. W. 216.

And There's the Rub. A salesman-like-looking inspector stopped over night at a small-town Kansas hotel, and was surprised to find a dirty roller towel in the wash room. "Don't you know that it has been against the law for years to put up a roller towel in this state?"

"Sure, I know it," replied the proprietor; "but no ex post facto law goes in Kansas, and that there towel was put up before the law was passed."—Topeka Capital.

Webster's Wit. Daniel Webster was once addressing the Senate and holding the close attention of all present, when the Senate clock commenced striking, but instead of stopping at two, as it should, it continued on and on. When fourteen strokes had been counted, Mr. Webster, who had paused in his remarks, appealed to the Chair: "Mr. President, the clock is out of order! I have the floor!"—Boston Transcript.

Hopeless. "My lord said the prisoner in the dock, "have I got to be tried by a jury of women?"

"Be quiet!" whispered his counsel.

"I won't be quiet! My lord, I can't even deceive my own wife, let alone twelve women—I plead guilty."
—Boston Transcript.

Settle it Out of Court. Magistrate: "Can't this case be settled out of court?"

Mulligan: Sure, sure; that's what we were trying to do your Honor, when the police interfered."—United Presbyterian.

"Provocation" is Good. In an examination a schoolboy gave this definition: "Holy matrimony is a divine institution for the provocation of mankind."

Due Notice. "What have you named your baby, Rastus?"

"Sam Pro Tem Johnson, sah."

"What's the Pro Tem for?"

"To show that the name is only temporary, sah. We kinder thought Sam might like to choose his own name when he growed up, so we put in de Pro Tem as a warning to de public."

Money Talks. "Sorry," said the constable, "but I'll have to arrest ye; ye've been drivin' along at the rate of 50 miles an hour."

"You are wrong, my friend," said the driver. "And here's $2 that says I wasn't."

"All right," returned the minion of the law, pocketing the money. "With all that against me, I ain't going to subject the county to the expense of a trial."—Pittsburgh Sun.

Helpless Autocrat. "One of life's little ironies was revealed in the court of domestic relations this morning."

"What was it?"

"A traffic policeman, who probably regulates the conduct of 50,000 people a day, said he couldn't make his wife behave."—Birmingham Age-Herald.

A New One. When a lady who was "burning up the road" on the boulevard was overtaken by a traffic officer, and motioned to stop, she indignantly asked; "What do you want with me?"

"You were running 40 miles an hour," answered the officer.

"Forty miles an hour? Why, officer, I haven't been out an hour," said the lady.

"Go ahead," said the officer. "That is a new one on me."—Pittsburg Dispatch.

Of Course. Here is one which actually occurred recently in a general court-martial trial.

Lieutenant,—being qualified as a finger-print expert, stated that he had been deputy sheriff in one of the large cities of the Pacific coast for about eight years.

Q. As deputy sheriff, what were your duties generally.

A. Generally they were of a criminal nature.

Found at Last. The clerk in Judge David's court in Chicago called for John Doe.

Up rose a tall, stout negro. Judge David looked at him curiously.

"So you're John Doe?" the judge asked.

"Yes, your Honor."

"Well, John," said the judge, "this is a matter for congratulation. We've been searching for you for 700 years. You can be proud of yourself, John Doe. You have some ancestry."

Merely Exercising Rights. "Madam," said the judge, deferentially, to a well-dressed, refined looking woman who appeared before him, "I am surprised to hear that you are charged with disorderly conduct. Where did you make the arrest, Officer Nibkins?"

"In a department store, your Honor."

"What was the defendant doing?"

"She knocked down four other women in a bargain counter rush."

"Umph! Case dismissed. The next time you make an arrest, Officer Nibkins, use a little judgment."
—Birmingham Age-Herald.

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